

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.01.2019

CORAM:

THE HONOURABLE Mr. JUSTICE C.T.SELVAM
AND
THE HONOURABLE Mrs. JUSTICE S.RAMATHILAGAM

H.C.P.No.2977 of 2018

Sumaiya Banu

...Petitioner/Wife of the Detenu

-Vs-

- The State represented by
1. The Secretary to Government of Tamil Nadu,
Department of Home,
Fort St. George, Chennai - 600 009.
 2. The Superintendent of Prison,
Central Prison,
Puzhal-1, Chennai.

...Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a Writ of Habeas Corpus, directing the respondents to release the detenu Hakkim, aged about 43 years, son of Mogamed Malangu, Convict No.4660 prematurely who detained at Central Prison, Puzhal-1, in the light of G.O.(Ms) No.64 dated 01.02.2018.

For Petitioner : Mr.S.Manoharan

For Respondents : Mr.R.Prathap Kumar
Additional Public Prosecutor

ORDER

[Order of the Court was made by C.T.SELVAM, J]

Petitioner, who is the wife of the Convict Prisoner viz.,
Hakkim (Convict No.4660, housed in Central Prison, Puzhal-1,

Chennai), S/o.Mohammed Malungu, has moved the present petition seeking relief under G.O.(Ms) No.64, Home (Prison-IV) Department, dated 01.02.2018.

2. Convict prisoner faced trial in S.C.No.240 of 2003 on the file of learned Sessions Judge, Nagapattinam. Trial Court convicted him u/s 302 r/w 109, 449, 324 & 149 IPC and sentenced him inter alia to life.

3. We have heard learned counsel for petitioner as also learned Additional Public Prosecutor for respondents.

4. Learned counsel for petitioner submits that petitioner's husband whose release is sought under G.O.(Ms) No.64, Home (Prison IV) Department dated 01.02.2018 is eligible therefor as he satisfies all parameters drawn up in the said Government Order. Petitioner has made a representation on 07.12.2018 to the respondents informing the application of G.O.(Ms).No.64, Home (Prison-IV) Department dated 01.02.2018 and seeking relief thereunder.

5. There is no dispute over the fact that the convict prisoner would be entitled to release under G.O.(Ms).No.64, Home [Prison-IV] Department dated 01.02.2018, if he has not suffered any specific ineligibility. He has been denied the benefit thereof since the Probation Officer's report informs danger to the life of the Convict Prisoner, if he be let at large. Refusing release of a prisoner on the ground that his safety is at risk would amount to denying him the same not owing to any fault of his but on an apprehension of possibility of wrong doing by others. This, we consider unreasonable. In such cases, we would recommend that prisoners be released but in doing so be informed of the possibility of harm to them.

6. Accordingly, this Habeas Corpus Petition shall stand allowed. The detenu viz., Hakkim (Convict No.4660 housed in Central Prison, Puzhal-1, Chennai), S/o.Mohammed Malungu, aged about 43 years is directed to be released forthwith in terms of G.O.(Ms).No.64, Home [Prison-IV] Department dated 01.02.2018 unless his presence is required in any other case.

kmi

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

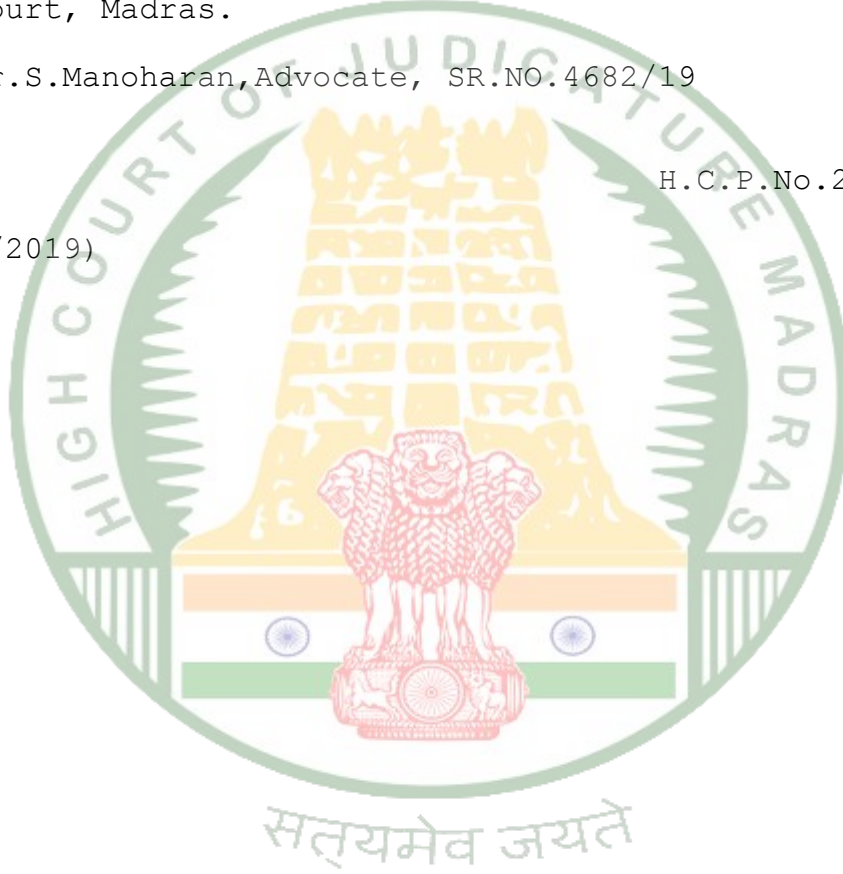
To

1. The Secretary to Government of Tamil Nadu,
Department of Home,
Fort St. George, Chennai - 600 009.
2. The Superintendent of Prison,
Central Prison,
Puzhal-1, Chennai.
3. The Public Prosecutor,
High Court, Madras.

+1cc to Dr.S.Manoharan, Advocate, SR.NO.4682/19

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kak(01/03/2019)



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